THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.23508 OF 2006

DATED 05th MARCH, 2007

BETWEEN:

Shaik Sattar Saheb

… Petitioner

AND

The Executive Officer, Panchayat Raj Department,
Divisional Office, Tenali, Guntur District and others.

… Respondents

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WRIT PETITION No.23508 OF 2006

ORDER:

The petitioner is brother of late Sk.Mohammed Saheb, who is alleged to have purchased land admeasuring Acs.0.76, out of Acs.1.32 in D.No.294/10 situated in Khajipalem Village, Pittalavanipalem Mandal, Guntur District, under registered sale deed in 1945-1946. It is alleged that as the purchaser died issueless, the petitioner herein succeeded to the property. The petitioner also alleges that though the land demised on his brother was Acs.0.76, the actual extent of the area is Acs.1.28 and respondents 1 to 3 highhandedly trespassed the property and started construction without resorting to land acquisition as per law. Therefore, he seeks a direction to the respondents not to make any construction in D.No.294/10.

This matter was initially listed on 10.11.2006. While ordering *status quo* for a period of two weeks, this Court directed the learned Assistant Government Pleader to file counter affidavit. Thereafter, the matter was listed on three occasions but the counter affidavit is not filed. Today, when the case is called, learned Assistant Government Pleader for Panchayats submits that out of the total extent of Acs.1.32, an extent of Acs.0.33 was owned by Lingaiah, that after death, his legal representatives donated the said piece of land to Gram Panchayat, which is being used for construction. He also submits that the respondents are not at all making any construction on the land admeasuring Acs.0.76, which is allegedly purchased by the brother of the petitioner.

Though the petitioner claims that his brother purchased the property in 1945-1946, no documentary evidence is placed before this Court in proof of such allegation. The only document annexed to the writ petition is a legal notice, dated 18.10.2006, issued on behalf of the petitioner to the respondents. Even in this legal notice, the petitioner claims an extent of Acs.0.76 (out of Acs.1.32) in D.No.294/10, but alleges that as per the measurements, it measures Acs.1.28. This only shows that there is certainly a factual dispute regarding the actual area. When the petitioner claims property through his brother, who purchased only Acs.0.76, it is ununderstandable as to how the petitioner claims to be owner of Acs.1.28 or Acs.1.32. Therefore, this Court is of considered opinion that the writ petition is based on misconception.

The writ petition is devoid of any merit and is accordingly

dismissed. No costs.

(V.V.S.RAO,J)

05.03.2007.
pln